

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 1, 2022

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2022 APR -1 P 4: 24

APPLICATION OF

ATMOS ENERGY CORPORATION

CASE NO. PUR-2022-00043

For expedited approval of a special contract  
for gas transportation service pursuant to  
§ 56-235.2 of the Code of Virginia

ORDER FOR NOTICE AND COMMENT

On March 11, 2022, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-235.2 of the Code of Virginia ("Code") and the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive,<sup>1</sup> requesting expedited approval of a special contract for gas transportation service to Blue Star Manufacturing, LLC and Blue Star NBR, LLC (jointly, "Blue Star").<sup>2</sup> Along with its Application, Atmos filed a Motion for Protective Ruling in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice").

In support of its Application, the Company states that, effective January 27, 2022, Atmos and Blue Star entered into a "System Expansion and Interruptible Transportation Service Agreement" ("Contract") to construct a system expansion and transport gas to Blue Star's industrial facility under construction in Wytheville, Virginia.<sup>3</sup> Atmos states that Blue Star's manufacturing facility and gas service requirements require a system expansion by Atmos to

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<sup>1</sup> 20 VAC 5-310-10 *et seq.*

<sup>2</sup> Application at 1.

<sup>3</sup> *Id.* at 2.

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serve this facility.<sup>4</sup> The Company states that as part of this system expansion, Atmos was able to negotiate system expansion and transportation service conditions with Blue Star that include a minimum margin requirement, which is to protect Atmos and its current customers in the unlikely event that Blue Star's future usage falls short of expectations and ends up being insufficient to justify the investment in the system.<sup>5</sup> Atmos states what while Blue Star will be paying tariffed rates, the minimum margin requirement is not specifically contemplated in the Company's tariff.<sup>6</sup> Accordingly, Atmos is submitting this agreement for approval as a special contract.<sup>7</sup>

Atmos states that no customers would be prejudiced by the Commission approving the arrangement with Blue Star and approving the Contract.<sup>8</sup> The Company states that Blue Star will be a high-volume customer that brings significant economic benefits to the region; Blue Star will be paying tariffed rates; and the minimum margin requirement in the Contract will protect other customers should Blue Star's usage fall short.<sup>9</sup> Atmos states that pursuant to the terms of the Contract, the Company is only required to construct a system expansion in order to transport and redeliver confirmed quantities of gas that it receives into its system for Blue Star, and as such, reliable service to other customers will not be jeopardized by providing service to Blue Star.<sup>10</sup>

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<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* at 6.

In support of its request for expedited approval, the Company states that since Blue Star expects to be operational in or around August 2022, Atmos has already begun work on the system expansion in order to meet Blue Star's operational requirements.<sup>11</sup> Atmos further states that the only item in the Contract for which the Company seeks Commission approval that is not already covered by the Company's existing tariffs is the provision implementing a minimum margin requirement.<sup>12</sup>

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; the Company should provide public notice of its Application; that interested persons should be permitted to comment or request a hearing on the Company's Application; and Commission Staff ("Staff") should be directed to investigate the Application and file a report containing its findings and recommendations thereon. We further find that a Hearing Examiner should be assigned to rule on any discovery matter that may arise in this proceeding, including the Company's Motion for Protective Ruling.

The Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.<sup>13</sup>

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<sup>11</sup> *Id.* at 6-7.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

Consistent with these actions, the Commission will, among other things, direct the electronic filing of pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2022-00043.

(2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise during the course of this proceeding, including the Company's Motion for Protective Ruling.

(3) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.<sup>14</sup>

(4) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically

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<sup>14</sup> As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may be subject to delayed processing due to the COVID-19 public health issues.

protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

(5) On or before April 22, 2022, Atmos shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory within the Commonwealth of Virginia:

APPLICATION OF ATMOS ENERGY CORPORATION,  
FOR EXPEDITED APPROVAL OF A SPECIAL CONTRACT  
PURSUANT TO § 56-235.2 OF THE CODE OF VIRGINIA  
CASE NO. PUR-2022-00043

On March 11, 2022, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56 235.2 of the Code of Virginia ("Code") and the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive, requesting expedited approval of a special contract for gas transportation service to Blue Star Manufacturing, LLC and Blue Star NBR, LLC (jointly, "Blue Star").

In support of its Application, the Company states that effective January 27, 2022, Atmos and Blue Star entered into a "System Expansion and Interruptible Transportation Service Agreement" ("Contract") to construct a system expansion and transport gas to Blue Star's industrial facility under construction in Wytheville, Virginia. Atmos states that Blue Star's manufacturing facility and gas service requirements require a system expansion by Atmos to serve this facility. The Company states that as part of this system expansion, Atmos was able to negotiate system expansion and transportation service conditions with Blue Star that include a minimum margin requirement, which is to protect Atmos and its current customers in the unlikely event that Blue Star's future usage falls short of expectations and ends up being insufficient to justify the investment in the system. Atmos states what while Blue Star will be paying tariffed rates, the minimum margin requirement is not specifically contemplated in the Company's tariff. Accordingly, Atmos is submitting this agreement for approval as a special contract.

Atmos states that no customers would be prejudiced by the Commission approving the arrangement with Blue Star and approving the Contract. The Company states that Blue Star will be

a high-volume customer that brings significant economic benefits to the region; Blue Star will be paying tariffed rates; and the minimum margin requirement in the Contract will protect other customers should Blue Star's usage fall short. Atmos states that pursuant to the terms of the Contract, the Company is only required to construct a system expansion in order to transport and redeliver confirmed quantities of gas that it receives into its system for Blue Star, and as such, reliable service to other customers will not be jeopardized by providing service to Blue Star.

In support of its request for expedited approval, the Company states that since Blue Star expects to be operational in or around August 2022, Atmos has already begun work on the system expansion in order to meet Blue Star's operational requirements. Atmos further states that the only item in the Contract for which the Company seeks Commission approval that is not already covered by the Company's existing tariffs is the provision implementing a minimum margin requirement.

The Commission entered an Order for Notice and Comment that, among other things, ordered the Company to provide notice of its Application and provided interested persons an opportunity to comment and/or request a hearing on the Company's Application.

The Commission has taken judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Comment for further instructions concerning Confidential or Extraordinarily Sensitive Information.

A copy of the public version of the Application may be obtained, at no charge, by requesting it in writing from the Company's counsel, Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, [tbiller@huntonak.com](mailto:tbiller@huntonak.com), [ritterj@huntonak.com](mailto:ritterj@huntonak.com). A public version of the Application and related documents may be downloaded from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

On or before May 6, 2022, any interested person or entity may submit comments on the Application with the Clerk of the Commission by following the instructions on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments). Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such comments shall refer to Case No. PUR-2022-00043.

On or before May 6, 2022, any interested person or entity may file a request for a hearing on the Application with the Clerk of the Commission at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Those unable, as a practical matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed above. Such request for hearing shall include the email addresses of such parties or their counsel, if available. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All requests for a hearing shall refer to Case No. PUR-2022-00043. Persons filing a request for hearing shall serve a copy of their request upon the Company's counsel at the address set forth above.

On or before May 6, 2022, any interested person or entity may participate as a respondent in this proceeding by filing a notice of participation with the Clerk of the Commission at: [scc.virginia.gov/clk/efiling/](http://scc.virginia.gov/clk/efiling/). Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the

factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00043.

ATMOS ENERGY CORPORATION

(6) On or before April 22, 2022, Atmos shall serve a copy of its Application and this Order for Notice and Comment on the following local officials, to the extent the position exists, in each county, city, and town in which Atmos provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city or town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(7) On or before May 6, 2022, the Company shall file proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, address, and electronic mail address (if applicable) of each official serviced, with the Clerk of State Corporation Commission by filing electronically at [scc.virginia.gov/clk/efiling/](https://scc.virginia.gov/clk/efiling/).

(8) An electronic copy of the public version of the Company's Application may be obtained by submitting a written request to counsel for the Company, Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, [tbiller@huntonak.com](mailto:tbiller@huntonak.com), [ritterj@huntonak.com](mailto:ritterj@huntonak.com). A copy of the public version of the Application also may be downloaded from the Commission's website: [scc.virginia.gov/pages/Case-Information](https://scc.virginia.gov/pages/Case-Information).

(9) On or before May 6, 2022, any interested person or entity may submit comments on the Application by following the instructions found on the Commission's website:



[scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments). Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2022-00043.

(10) On or before May 6, 2022, any interested person or entity may file a request for a hearing with the Clerk of the Commission at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Those unable, as a practical matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (9). Such request for hearing shall include the email addresses of such parties or their counsel, if available. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All requests for a hearing shall refer to Case No. PUR-2022-00043. Any person or entity filing a request for hearing shall serve a copy of the request on counsel for Atmos: Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, [tbiller@huntonak.com](mailto:tbiller@huntonak.com), [ritterj@huntonak.com](mailto:ritterj@huntonak.com).

(11) On or before May 6, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address in Ordering Paragraph (9). Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to

5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00043.

(12) On or before May 13, 2022, Atmos shall file with the Clerk of the Commission a response to any request for hearing filed in this docket and shall serve a copy of such filing on Staff and all respondents.

(13) The Staff shall investigate the Application and, on or before May 13, 2022, file with the Clerk of the Commission a report on the Company's Application containing Staff's findings and recommendations ("Staff Report").

(14) On or before May 20, 2022, Atmos shall file with the Clerk of the Commission any response to the Staff Report and any comments filed in this proceeding.

(15) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(16) Atmos shall respond to written interrogatories or requests for the production of documents within five (5) business days after the receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff

attorney, if the interrogatory or request for production is directed to Staff.<sup>15</sup> Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(17) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to: Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, [tbiller@huntonak.com](mailto:tbiller@huntonak.com), [ritterj@huntonak.com](mailto:ritterj@huntonak.com); and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219, [mbrowder@oag.state.va.us](mailto:mbrowder@oag.state.va.us).

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<sup>15</sup> The assigned Staff attorney is identified on the Commission's website, [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information), by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2022-00043, in the appropriate box.